



Patent
384466-605021

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Michael SITTINGER, et al.

Serial No.: 10/635,658

Filed: August 5, 2003

For: **IMPLANTABLE SUBSTRATE
FOR THE HEALING AND
PROTECTION OF CONNECTIVE
TISSUE, PREFERABLY
CARTLIDGE**

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) **Group Art Unit:**
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) **Examiner:**
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) **Customer No.: 34026**
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INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in the Information Disclosure Statement ("IDS") are brought to the attention of the Office. The items are listed on the attached form PTO-1449 and copies are enclosed for the convenience of the Examiner. Applicant respectfully requests that a copy of the Form PTO-1449, as considered and initialed by the Examiner, be returned with the next communication.

The items identified in the IDS may or may not be "material" pursuant to CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such.

In accordance with 37 CFR 1.97(g), the filing of the Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information, as defined in 37 CFR 1.56, exists.

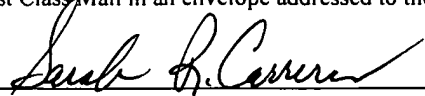
CERTIFICATE OF MAILING
(37 C.F.R. §1.8)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450.

October 31, 2003

Date of Deposit

LAI-2071383v1


Sarah R. Carreras

INFORMATION DISCLOSURE STATEMENT FILING PROVISION:

☒ This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution application filed under § 1.53(d); or (2) within three months of entry of the national stage as set forth in 37 CFR § 1.491; or (3) before the mailing of a first Office Action on the merits; or (4) before the mailing of a first Office Action after filing a request for continued examination under § 1.114. Thus, no fee is required.

☒ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.

☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.

☐ This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.

☐ The fee due under 37 CFR § 1.17(p) is submitted herewith.

☐ A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received for a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.

☐ This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.

STATEMENT UNDER 37 CFR § 1.97(e):

☐ Each item contained in this IDS was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.

☐ No item contained in the IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

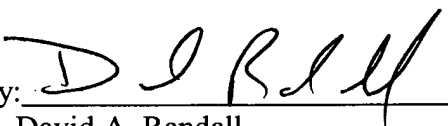
PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:

- ☐ A check in the amount of _____ is enclosed for the above fee(s).
- ☐ Please charge _____ to Deposit Account No. 50-2468 for the above fee(s).

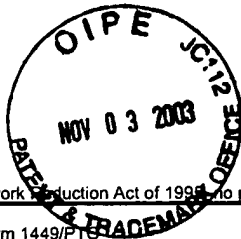
The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to Jones Day's Deposit Account No. 50-2468.

Respectfully submitted,
Jones Day

Dated: October 31, 2003

By: 
David A. Randall
Reg. No. 37,217

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PTO/SB/08A (04-03)

Approved for use through 04/30/2003. OMB 0651-0031

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Substitute for form 1449/PTO

Complete if Known**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

Sheet 1

of 2

Application Number	10/635,658
Filing Date	August 5, 2003
First Named Inventor	Slittinger, Michael
Art Unit	
Examiner Name	
Attorney Docket Number	384466-605021

U. S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
	1.	US- 5,817,773	10/06/1998	Wilson, et. al.	
	2.	US- 5,837,258	11/17/1998	Grotendorst	
	3.	US- 5,853,746	12/29/1998	Hunziker	
	4.	US- 5,910,489	06/08/1999	Falk, et. al.	
	5.	US- 5,944,754	08/31/1999	Vacanti	
	6.	US- 6,080,194	06/27/2000	Pachence, et. al.	
	7.	US- 6,242,247 B1	06/05/2001	Rieser, et. al.	
	8.	US- 6,277,151 B1	08/21/2001	Lee, et. al.	
	9.	US- 6,334,968 B1	01/01/2002	Shapiro, et al.	
	10.	US- 6,602,294 B1	08/05/2003	Sittinger, et al.	
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FOREIGN PATENT DOCUMENTS

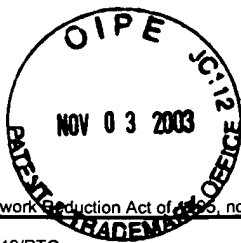
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T ⁶
		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)				
	11.	EP 0 312 208 A1	04/19/1989	Ethicon, Inc.		
	12.	WO 90/00060 A1	01/11/1990	Pett et al.		
	13.	WO 99/19005 A1	04/22/1999	Collagen Corp.		
	14.	WO 99/33415 A1	07/08/1999	Depay Orthopedics, Inc.		

Examiner
SignatureDate
Considered

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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(Use as many sheets as necessary)

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Art Unit	
Examiner Name	
Attorney Docket Number	384466-605021

Sheet 2 of 2

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
	15.	W. B. van den Berg, "The role of cytokines and growth factors in cartilage destruction in osteoarthritis and rheumatoid arthritis", Z. Rheumatol 58:136-141 (1999).	
	16.	J. A. Buckwalter, et. al., "Articular Cartilage Repair And Transplantation", Arthritis & Rheumatism, Vol. 41, No. 8, pp. 1331-1342, (Aug. 1998).	
	17.	C. H. Evans, et. al., "Gene Therapy For Rheumatic Diseases", Arthritis & Rheumatism, Vol. 42, No. 1, pp. 1-16, (Jan. 1999).	
	18.	J. H. Herndon et. al., "Arthritis: Is the Cure in Your Genes?", The J. of Bone and Joint Surgery, Vol. 81-A, No. 2, (Feb. 1999).	
	19.	J. R. Kalden, et. al., "Gentherapie der rheumatoiden Arthritis ein bereits anwendbares Therapienprinzip?", Z. Rheumatol 57:1-8, (1998).	
	20.	N. R. Kübler, "Osteoinduktion und-reparation", Mund Kiefer Gesichtschir 1:2-25, (1997).	
	21.	M. Sittlinger et. al., "Joint cartilage regeneration by tissue engineering", Z. Rheumatol, 58:130-135, (1999).	

Examiner Signature	Date Considered
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached.

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